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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventeenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the
Rights of the Child: Libyan Arab Jamahiriya

1. The Committee considered the initial report of the Libyan Arab Jamahiriya (CRC/C/28/Add.6) at its 432nd to 434th meetings (CRC/C/SR.432-434) on 8 and 9 January 1998, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its report, which has been prepared in conformity with the Committee's guidelines, and for the submission of written replies to its list of issues (CRC/C/Q/LIBYA.1). The Committee notes the constructive dialogue it had with the delegation of the State party, and the replies it received from the delegation during the dialogue. The Committee also notes the supplementary information provided by the delegation during the consideration of the report.

B. Positive aspects

3. The Committee welcomes the fact that the Convention is self-executing and that its provisions may be invoked before the courts in the State party.

4. The Committee notes with satisfaction the range of services provided by the State party, especially in the fields of health and education. The Committee particularly notes that education is free of charge and that primary school attendance is nearly universal. The Committee also notes with satisfaction that health services are free for all children, breastfeeding has reached the level of 91 per cent and that a range of specialized services and facilities exist for persons with disabilities, including children.

* At the 453rd meeting, held on 23 January 1998.

C. Factors and difficulties impeding the implementation of the Convention

5. In light of General Comment No. 8 adopted by the Committee on Economic, Social and Cultural Rights (1997), the Committee notes that the imposition by the Security Council of an aerial embargo on the State party has adversely affected the economy and many aspects of the daily life of its citizens, thereby impeding the full enjoyment by the State party's population, including children, of their rights to health and education.

D. Principal subjects of concern

6. The Committee is concerned that domestic legislation is not in full conformity with the principles and provisions of the Convention.

7. The Committee, while noting with appreciation the existence of various government bodies responsible for the welfare of children at the national and local levels, regrets the lack of adequate coordination among these bodies in promoting and protecting the rights of the child and developing a comprehensive approach to the implementation of the Convention.

8. The Committee acknowledges that efforts have been made by the State party to promote awareness of the provisions of the Convention in schools. The Committee remains concerned, however, that insufficient steps have been taken to date to promote awareness and understanding of the principles and provisions of the Convention among both children and adults. The Committee is particularly concerned that the training on children's rights provided to professionals working with and for children appears to be insufficient and unsystematic.

9. The Committee is concerned that no adequate measures have been taken for the development of indicators and the systematic collection of disaggregated quantitative and qualitative data on the areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children. The Committee is particularly concerned over the absence of data on adolescent health, including on teenage pregnancy, abortion, suicide, violence and abuse.

10. The Committee wishes to express its general concern that the State party does not appear to have fully taken into account the provisions of the Convention, especially its general principles, as reflected in its articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (respect for the views of the child), in its legislation, its administrative and judicial decisions, as well as in its policies and programmes relevant to children. While noting the existence of mechanisms to register and address complaints, the Committee is concerned at the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the law.

11. The Committee regrets that the Great Green Document on Human Rights, promulgated by the General People's Congress, does not include an express prohibition of discrimination on the basis of language, national, ethnic or social origin, property, disability and birth status. The Committee is

especially concerned at discrimination against children of migrant workers and non-citizens, and children born out of wedlock. The Committee is also concerned that although the Great Green Document on Human Rights prohibits discrimination on the basis of sex, there are still disparities in legislation and practice, in particular with regard to inheritance rights. The Committee is further concerned that in the light of Libyan legislation regarding citizenship, decisions related to the acquisition of nationality are based only on the status of the father.

12. In the light of articles 2 and 3 of the Convention, the Committee is concerned at the continued use of the term "illegitimate children", to refer to children born out of wedlock, in administrative instructions and regulations by the State party, which could lead to discriminatory practices against these children.

13. The Committee notes with deep concern that the law applicable in the case of rape of a minor excuses the perpetrator of the crime from penal prosecution if he is prepared to marry his victim.

14. The Committee expresses its concern about the lack of prohibition in local legislation of the use of corporal punishment, however light, at home. In the view of the Committee, this contravenes the principles and provisions of the Convention.

15. The Committee is concerned by the existence of child abuse and violence within the family.

16. While noting improvements in the overall nutritional status of children in the State party, the Committee notes with concern that diarrhoea and chronic under-nutrition or stunting in children under the age of five are still widespread.

17. The Committee is concerned at the situation of the administration of juvenile justice and in particular its compatibility with articles 37 and 40 of the Convention, as well as other relevant United Nations standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

E. Suggestions and recommendations

18. The Committee recommends that the State party review its legislation with the aim of reforming it so that it conforms fully with the Convention. The Committee suggests that the State party consider enacting a children's code. The Committee recommends specifically that the legislation explicitly prohibit discrimination on any grounds, including language, national, ethnic or social origin, property, disability and birth status. The Committee also recommends that domestic legislation be reformed to guarantee the right to a nationality to every child in the light of article 7 of the Convention.

19. The Committee recommends that further steps be taken by the State party to strengthen coordination between the various government bodies involved in

children's rights at both national and local levels as well as between the ministries, and that greater efforts be made to ensure closer cooperation with non-governmental organizations (NGOs) working in the field of human and children's rights.

20. The Committee recommends that the State party consider designing and implementing a special plan of action for children reflecting a comprehensive approach to children's rights and incorporating all aspects and provisions of the Convention.

21. The Committee recommends that greater efforts be made to ensure that the provisions of the Convention are widely known and understood by adults and children alike. The Committee also recommends that systematic training and retraining programmes on the rights of the child be organized for professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators, health personnel, social workers, officials of central or local administrations, personnel of child-care institutions, the mass media, and the public at large. The Committee suggests that the State party incorporate the Convention in school and university curricula. The Committee also suggests that the State party seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF for organizing such training curricula reform.

22. The Committee recommends that the system of data collection be reviewed with a view to incorporating all the areas covered by the Convention. Such a system should include all children, with specific emphasis on vulnerable children and children in especially difficult circumstances, including those who are victims of abuse or ill-treatment, child workers, children involved with the administration of juvenile justice, the girl child, children of single-parent families and children born out of wedlock, abandoned, institutionalized and with disabilities. Adequate disaggregated data should be gathered and analysed in order to assess progress achieved in the realization of children's rights and to help in defining policies to better implement the provisions of the Convention. With respect to the latter issue, the Committee recommends that further studies and follow-up surveys on vulnerable groups of children be initiated and that the State party consider seeking technical assistance from, inter alia, UNICEF and ILO.

23. The Committee recommends that the State party consider the introduction of a number of policies and programmes that guarantee implementation of the existing legislation through adequate services, remedies and rehabilitation programmes. The Committee also recommends that the State party consider the establishment of an independent body for monitoring the implementation of the Convention.

24. The Committee recommends that the State party abolish the use of the term "illegitimate children" in its legislation, policies, programmes, regulations and administrative instructions.

25. The Committee further recommends that, in light of article 2 of the Convention, adequate measures be taken to ensure the protection and enjoyment of rights by non-citizens who are under the jurisdiction of the State party.

26. The Committee recommends that further studies be conducted in relation to the widespread chronic malnutrition or stunting and diarrhoea. Such research would help guide policies and programmes to reduce the occurrence of stunting. The Committee suggests that the State party consider seeking technical assistance from, inter alia, UNICEF and WHO in this regard.

27. In the light of article 44(4) of the Convention, the Committee requests the State party to provide it with further information on the legislation that excuses the perpetrator of the crime of rape from penal prosecution if he is prepared to marry the victim, in the Committee's view, this could interfere with the victim's free will and could lead to early marriage.

28. The Committee notes with satisfaction the availability of facilities and services for persons with disabilities, including children. The Committee recommends that the State party enhance the inclusion approach by which disabled children are included in their mainstream facilities and natural environment, while still receiving specialized programmes and facilities as needed. The Committee draws the attention of the State party to the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993).

29. The Committee suggests that the State party take all appropriate measures, including of a legislative nature, with the aim of prohibiting corporal punishment at home. The Committee also suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention. The Committee recommends that cases of abuse and ill-treatment of children, including rape and sexual abuse within the family, are properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in such cases, with due regard given to protecting the right to privacy of the child. Further measures should be taken with a view to ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims.

30. The Committee recommends the State party undertake research on the issue of domestic violence and child abuse which identifies the extent of the problem and provides socio-economic background information and analysis on the families facing these problems.

31. The Committee recommends that the State party envisage taking further steps to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to the protection of the rights of children deprived of their

liberty, to due process of law and to the full independence and impartiality of the judiciary. Training programmes on relevant international standards should be organized for all those professionals involved with the system of juvenile justice. The Committee suggests that the State party consider seeking technical assistance from, inter alia, the Office of the High Commissioner for Human Rights, the United Nations Centre for International Crime Prevention and UNICEF.

32. In order to ensure that all refugee children or children seeking refugee status enjoy their rights under the Convention, the Committee recommends that the State party consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

33. The Committee recommends that research be carried out on the situation of child labour in the State party, including the involvement of children in hazardous work, to identify its causes and the extent of the problem.

34. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including concerned NGOs.